

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
WAI'OLA O MOLOKA'I, INC. )  
For Review and Approval of Rate )  
Increases; Revised Rate Schedules; )  
And Revised Rules. )  

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Docket No. 2009-0049

PREHEARING CONFERENCE ORDER

FILED

2010 APR 29 P 12:18

PUBLIC UTILITIES  
COMMISSION

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OF THE STATE OF HAWAII

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_____	)

PREHEARING CONFERENCE ORDER

The commission issues this Prehearing Conference Order as a result of the prehearing conference held on April 27, 2010, in preparation for the evidentiary hearing scheduled to commence on May 19, 2010.

I.

Introduction

On April 27, 2010, the commission held a prehearing conference ("Prehearing Conference") pursuant to Hawaii Administrative Rules ("HAR") § 6-61-36, with representatives from WAI`OLA O MOLOKA`I, INC. ("WOM"), MOLOKAI PROPERTIES LIMITED ("MPL"), the COUNTY OF MAUI ("County"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") (collectively, the "Parties").<sup>1</sup> The commission issues this Order in accordance with HAR § 6-61-37.

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<sup>1</sup>Chairman Carlito P. Caliboso presided over the Prehearing Conference, which was also attended by Commissioners John E. Cole and Leslie H. Kondo. The Parties were represented by the following representatives: (1) Yvonne Y. Izu, Esq., for WOM;

## II.

### Discussion

The terms and provisions of the commission's Order Approving Proposed Procedural Order, as Modified, filed on November 6, 2009, are incorporated by reference herein, to the extent applicable. The issues governing this proceeding are set forth in the Notice of Evidentiary Hearing dated March 23, 2010.

Consistent with the agreements reached and actions taken at the Prehearing Conference, and unless modified otherwise by the commission, the following terms shall control the evidentiary hearing and the remaining course of this proceeding:

1. The following pre-evidentiary hearing deadline dates were established:

#### April 29, 2010

(A) WOM's letter describing the status of Parties' mediation efforts; and (B) aside from County's motion regarding subpoenas (see below), all other pre-evidentiary hearing motions based on the existing docket record.

#### May 5, 2010 (by 12 noon)

County's motion requesting the issuance of subpoenas to require the attendance of two MPL witnesses at the evidentiary hearing.

#### May 6, 2010

(A) WOM's updated metering information, to the extent that such information is available; and (B) Parties' responses to any other pre-evidentiary motions filed on April 29, 2010.

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(2) James J. Bickerton, Esq., for MPL; (3) Margery S. Bronster, Esq., and Jeannette H. Castagnetti, Esq., for the County; and (4) Dean Nishina and Jon S. Itomura, Esq., for the Consumer Advocate.

May 11, 2010

Parties' responses to the County's motion seeking the issuance of subpoenas.

2. All pre-evidentiary hearing motions shall be served on the other Parties by hand-delivery.

3. Opening statements shall be limited to five minutes per party. The order of opening statements will be as follows: (A) WOM; (B) Consumer Advocate; (C) MPL; and (D) the County.

4. A total of two witnesses submitted written testimonies. Each witness will appear, testify at the evidentiary hearing (summarizing their written testimonies), and be available for cross-examination.

5. The Order of the Parties' presentation of witnesses will be as follows: (A) WOM; (B) Consumer Advocate; and (C) WOM (rebuttal).. (No written testimonies were submitted by MPL or the County.)

The order of cross-examination of witnesses will be as follows: (A) WOM; (B) Consumer Advocate; (C) MPL; and (D) the County.

6. While Mr. Peter Nicholas did not submit any written testimonies in this proceeding, he will be available at the evidentiary hearing to answer questions.

7. The Parties' hearing exhibits shall be pre-marked, as applicable (example: WOM Hearing Exhibit \_\_\_\_). In addition, the Parties, prior to the evidentiary hearing, should identify

and discuss any exhibits they intend to introduce at the hearing, and any objections thereto.

8. Paragraph 18 of the Commission's Amended Protective Order, filed on December 11, 2009 ("Amended Protective Order"), provides that at a commission hearing where information designated as confidential is discussed, such hearing "shall be held in camera, or under other conditions imposed by the Commission to prevent unnecessary public disclosure of such information." The commission's preference is to not close any portion of the evidentiary hearing. Instead, the Parties shall use their best efforts to present their cases without disclosing or referring to information designated as confidential.

9. The County will discuss with WOM re-designating certain confidential information as non-confidential pursuant to the terms of the Amended Protective Order.

10. Closing arguments shall be limited to ten minutes per party. The order of closing arguments will be as follows: (A) WOM; (B) Consumer Advocate; (C) MPL; and (D) the County.

11. Simultaneous post-hearing briefs will be due "3 weeks" (meaning twenty-one (21) calendar days) after notice that the hearing transcripts are completed and available is issued by the commission.

12. The Parties may request that the commission take official notice of factual background information presented in the evidentiary hearing in Docket No. 2009-0048.

III.


Order

THE COMMISSION ORDERS:

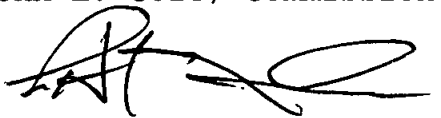
The terms set forth in this Prehearing Conference Order shall control the evidentiary hearing and the remainder of this proceeding, unless modified or ordered otherwise by the commission.

DONE at Honolulu, Hawaii APR 29 2010.

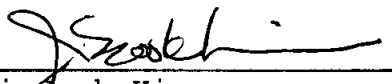
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso, Chairman

By:   
John E. Cole, Commissioner

By:   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Ji Sook Kim  
Commission Counsel

2009-0049.ps

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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